

CASE No. 1:23-CV-03920-JHR

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**IN RE CELSIUS NETWORK LLC, ET AL.,
*DEBTORS.***

COMMUNITY FIRST PARTNERS, LLC, ET AL.,

APPELLANTS,

V.

**OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR
CELSIUS NETWORK LLC, ET AL.,**

APPELLEES,

IMMANUEL J. HERRMANN AND DANIEL A. FRISHBERG

CROSS-APPELLANTS.

**APPEAL FROM THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
BANKR. CASE No. 22-10964 (MG)**

JOINT STIPULATION OF VOLUNTARY DISMISSAL

June 12, 2023

This Stipulation of Voluntary Dismissal pursuant to Federal Rule of Bankruptcy Procedure 8023 is made by and among Appellants Community First Partners, LLC, Celsius SPV Investors, LP, Celsius New SPV Investors, LP, and CDP Investissemens Inc. (collectively, “**Appellants**”), as beneficial holders, or investment advisors or managers of beneficial holders, of Series B Preferred Shares issued by Celsius Network Limited (together with its above-captioned affiliates, the “**Debtors**”) and Cross-Appellants Immanuel Herrmann and Daniel Frishberg (“**Cross-Appellants**” and, together with Appellants, the “**Parties**”).

RECITALS

WHEREAS, on April 18, 2023, the United States Bankruptcy Court for the Southern District of New York entered its *Order Granting the Motion of the Official Committee of Unsecured Creditors (I) for Authority to File a Class Claim Asserting Non-Contract Claims on Behalf of Account Holders or (II) to Appoint a Third-Party Fiduciary to Assert Non-Contract Claims on Behalf of Account Holders* [Bankr. Docket No. 2496]¹ (the “**Class Claim Order**”), which authorized the Official Committee of Unsecured Creditors (the “**Committee**”) and any specified lead claimant or claimants to file a class proof of claim asserting non-contract claims of account holders against the Debtors.

¹ “Bankr. Docket” refers to the docket in *In re Celsius Network LLC, et al.*, Case No. 22-10964 (Bankr. S.D.N.Y.). “App. Docket” refers to the docket in this appeal.

WHEREAS, on April 28, 2023, the Committee filed Proof of Claim No. 29068 on the Debtors' claims register (the "**Class Claim**").

WHEREAS, on May 2, 2023, Appellants filed a *Notice of Appeal* [Bankr. Docket No. 2576] from the Class Claim Order, initiating the above-captioned appeal (the "**Appeal**").

WHEREAS, on June 5, 2023, Messrs. Herrmann and Frishberg filed their *Motion to Dismiss this Appeal* [App. Docket No. 9].

WHEREAS, the Parties have met and conferred regarding the Appeal, and have agreed to a voluntary dismissal of the Appeal without prejudice.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into this Stipulation, the Parties stipulate and agree as follows.

STIPULATION

1. The Appeal is dismissed without prejudice to Appellants' or Cross-Appellants' rights to raise any of the issues presented in this Appeal, including, for the avoidance of doubt, issues regarding judicial estoppel or invited error, in any future appeal from a future order of the Bankruptcy Court.

2. The dismissal of the Appeal is also without prejudice to Appellants' or Cross-Appellants' rights to oppose any future appeals by Appellants or Cross-Appellants on any grounds, except that they cannot assert that any of the issues raised

in this Appeal that are raised in a future appeal have been waived or are in any way untimely.

3. Pursuant to Federal Rule of Bankruptcy Procedure 8023(a), each of the Parties shall bear its own fees and costs.

SO STIPULATED:

Dated: June 12, 2023

APPELLANTS
Milbank LLP

CROSS-APPELLANTS

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SO ORDERED:

Dated: _____, 2023
New York, New York

THE HONORABLE JENNIFER H. REARDEN
UNITED STATES DISTRICT JUDGE